Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
Request for Review by Locus Telecommunications, LLC of Decisions of The Title II Program Administrators	)	Docket No. 06-122

Reply of Locus Telecommunications, LLC to Neustar's Opposition to Request for Review of Decisions of the Title II Program Administrators

Counsel for Locus Telecommunications, LLC

Jonathan S. Marashlian
Jacqueline R. Hankins
MARASHLIAN & DONAHUE, PLLC
The *Comm*Law Group
1420 Spring Hill Road, Suite 401
Tysons, Virginia 22102
Office Tel: 703-714-1313
E-Mail: jsm@CommLawgroup.com

December 9, 2016

Reply to Neustar's Opposition to Request for Review of Decisions of the Title II Program Administrators

I. Introduction and Executive Summary

By undersigned counsel, pursuant to 47 C.F.R. §§ 54.719 – 54.725, Locus Telecommunications, LLC ("Locus" or "the Company") hereby replies to Neustar, Inc.'s ("Neustar") Opposition to Locus's Request for Review of Decisions of The Title II Program Administrators ("Opposition"). In its Opposition, Neustar challenges Locus's Request as procedurally infirm because Locus failed to first seek relief from the Universal Service Administrative Company ("USAC") and deficient on the merits because Neustar cannot grant Locus the requested relief. Both arguments fail. Locus's Request is timely and procedurally sound. USAC issued no decision for Locus to appeal prior to filing its Request for Review. And, Locus first appealed its July 2016 Local Number Portability ("LNP") and Telecommunications Relay Services ("TRS") Fund invoices to the administrators of those programs. Neustar and Rolka Loube refused to act on those appeals, and in its Request, Locus sought Commission review of these administrators' denials of its appeals. Furthermore, Neustar has access to the necessary data to grant the relief Locus requests (refunds of inflated amounts paid to date and corrected prospective invoicing for Title II Program Fees based exclusively on common carriage revenues). Accordingly, Neustar's Opposition is unfounded. The Commission should disregard the Opposition and grant the relief requested in Locus's Request for Review.

II. Argument

A. Locus's Request for Review is Procedurally Sound

In its Request, Locus sought Commission review of the rejection of the Company's appeals of its TRS, LNP, and North American Numbering Plan Administration ("NANPA") fee (collectively "Title II Program Fees") invoices by the respective administrators of those funds, or in the alternative, all TRS, LNP and NANPA invoices calculated on data derived from the Company's 2016 Form 499-A. As further outlined in its Request for Review, Locus earned revenues from both private and common carriage offerings in 2015. Locus timely filed its 2016 Form 499-A reporting 2015 revenues from each of its offerings. Locus listed "Private Service Provider" as its #2 business activity in Line 105 of the Form. Locus indicated its (partial) exemption from contribution to the Title II Programs by checking the appropriate boxes in Line 603 of the Form, and identifying private carriage revenue subject to the exemption (which includes revenue from prepaid calling cards sold to non-USF exempt resellers, as reported in Line 411, and revenue from sales to non-USF exempt carriers, reported in Lines 414.1 and 412). Along with its 2016 Form, Locus filed a supplement with factual and legal support for the claimed private carrier exemption. USAC ignored the language in Line 603 and the supplement and shared data reported on the Form with the Title II Program Administrators, which billed Locus based upon that data. Locus appealed the July invoices for LNP and TRS Fund fees to the respective administrators of those programs, Neustar and Rolka Loube, copying USAC on those appeals. Neustar and Rolka Loube both deferred to USAC, and USAC punted the issue back to the Title II Program Administrators, or, in the alternative, suggested that Locus seek Commission intervention.

Neustar suggests that Locus's Request is procedurally defective because, before seeking relief from the Commission, Locus should have appealed "USAC's decision to deny an exemption for private carriage revenues" directly to USAC. This argument fails for two reasons. First, USAC never issued a decision denying the exemption of Locus's private carriage revenues from Title II Program Fees. Accordingly, no USAC decision exists for Locus to appeal. Locus did not even learn that USAC had processed its Form 499-A without recognizing the private carriage exemption until it received its July 2016 invoices for LNP and TRS Fund fees. The invoices are the only available "decisions" for Locus to appeal.

Second, Locus *did* first seek review from the administrators of the programs that issued the invoices containing Title II Program Fees imposed on Locus's private carrier revenue, including Neustar and Rolka Loube. Both administrators declined to act on the appeals. Locus copied USAC on those appeals, and contacted USAC to discuss the appeals process. USAC indicated that it could not act on the appeals because it has no authority over those programs. Therefore, Locus confirmed that it had followed the appropriate path for appealing the subject invoices.[1] In its Request, Locus appeals Neustar, Rolka Loube and USAC's denials of its invoice appeals.

In sum, Neustar's claim that Locus neglected to follow the proper procedural path by first appealing USAC's "decision" regarding its use of Line 603 to exempt private carrier revenue from Title II Program Fees is fatally flawed for one simple reason – there was no USAC "decision" to appeal. In the absence of a USAC "decision," and any Commission rules governing appeals of Title II Program Administrator invoices, and in light of the meticulous steps Locus took to ensure its appeal to the Commission was proper and timely (including meeting with Wireline Competition Bureau staff prior to filing its Petition for Review), the Commission should deny Neustar's Opposition.

B. Neustar Can Provide the Requested Relief

Neustar can provide some of the relief Locus requests. Locus seeks refunds for amounts paid in Title II Program Fees based upon private carriage revenues reported on its 2016 Form 499-A. In addition, the Company requests that the Title II Program Administrators prospectively bill for Title II Program Fees based exclusively on common carriage revenue data. Neustar claims that

---

[1] As noted in the Request, the FCC's rules do not specify a process for appealing invoices or decisions issued by the Title II Program Administrators.

it cannot provide the requested relief because Neustar does not have the data necessary to issue the requested refund. However, nothing prevents Neustar from requesting this data from USAC. Locus clearly separated its private from its common carriage revenues on its 2016 Form 499-A. USAC, therefore, has the data necessary to enable the Title II Program Administrators to bill Locus exclusively on the basis of common carriage revenues. The Administrators should request this data from USAC in order to enable them to bill Locus (and other carriers) consistent with the FCC's rules.

Neustar further suggests that Locus should be required to "amend its submission to USAC before Neustar makes any changes to its bill." Locus, however, already provided, on its Form 499-A (and in the accompanying supplement) breakdowns of the Company's private and common carriage revenues. Therefore, USAC has the data necessary to enable the Title II Program Administrators to exclude private carriage revenues from their billing. No amendment is necessary.[2]

Finally, Neustar appears to pass the responsibility for handling Locus's request off to USAC, arguing that the Commission should reject its Request and "enforce the data reconciliation process." Locus has no objection to the Commission opting to work through USAC to provide the requested relief. However, due to USAC's inability or unwillingness to act on Locus's invoice appeals, Locus had no option but to seek the Commission's intervention. Locus requests that the Commission direct Neustar (and the other Title II Program Administrators) to secure the necessary data from USAC to enable them to bill Locus exclusively based on common carriage revenues

[2] Neustar appears to be under the impression that only the filed supplement segregates Locus's common from its private carriage revenues. This is incorrect. Locus identified exempt private carriage revenues directly on the Form (in Line 603) as well as in its supporting supplement. Accordingly, the Form 499-A itself includes all data necessary to enable the Title II Program Administrators to bill Locus exclusively based upon its common carriage revenues, and no amendment is necessary.

reported on its Forms 499-A (historically and prospectively) and to issue refunds for amounts overpaid on the basis of private carriage revenues. To the extent Locus's requested relief exclusively targets USAC (i.e., with respect to USAC's data sharing obligations and its policy of relying on the "primary" service identified in Line 105 of the Form), Locus agrees that only USAC can effectuate the requested relief under the Commission's direction.

III. Conclusion

For the foregoing reasons, Locus respectfully requests that the Commission disregard Neustar's Opposition to its Request for Review and issue the relief requested as follows: (1) instruct the Title II Program Administrators to recognize Locus's private carrier status and reissue invoices as requested; (2) direct USAC to withhold properly certified private carriage revenues from data shared with the Title II Program Administrators; (3) order USAC to discontinue its policy of relying on the "primary" service identified in Line 105 of the Form for this purpose, and (4) provide such other relief as may be appropriate.

Respectfully submitted,

Counsel for Locus Telecommunications, LLC

Jonathan S. Marashlian
Jacqueline R. Hankins
MARASHLIAN & DONAHUE, PLLC
The *Comm*Law Group
1420 Spring Hill Road, Suite 401
Tysons, Virginia 22102
Office Tel: 703-714-1313
E-Mail: jsm@CommLawgroup.com